

CASE GY83A DIV2

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Samuel J. DuBoff

Type or print name



Signature

November 15, 2004

Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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IN RE APPLICATION OF

ART UNIT: 1624

TAO WANG, ET AL

EXAMINER: EMILY B. BERNHARDT

NOV 15 2004

APPLICATION NO: 10/621,139

FILED: JULY 16, 2003

FOR: ANTIVIRAL AZAINDOLE DERIVATIVES

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT FOR INFORMATION DISCLOSURE

Sir:

This paper is being filed concurrently with the Request for Continued Examination (RCE) Transmittal. Therefore, no fees are required. If a fee is deemed to be required, the Commissioner is hereby authorized to charge such fee to Deposit Account No. 19-3880.

In accordance with 37 C.F.R. §1.56, applicant wishes to call the Examiner's attention to the reference cited on the attached form(s) PTO-1449.

A Notice of Allowance was mailed on August 11, 2004. The Issue Fee for patent grant was paid by Applicant on August 26, 2004.

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On September 2, 2004, Applicant first became aware of a relevant prior art patent not previously of record for this application – namely, European Patent 379134 published July 25, 1990.

This patent came to Applicant's attention from a fax letter dated September 2, 2004 and received by Applicant on September 3, 2004 from our patent agent representing Applicant in the corresponding Peru patent application. A copy of this patent reference and agent letter of September 2, 2004 are herein enclosed with this IDS.

Since this patent was not of record in the present U.S. case, Applicant wishes to bring this prior art to the attention of the Patent Office by way of requesting consideration for withdrawing from issue the present application and granting the Request for Continued Examination (RCE), including submittal of the IDS.

The compounds (1) presently allowed in claims 53 and 54, while broadly encompassed within the definition of compound II at page 3 of the European patent, are not claimed or disclosed elsewhere in the patent. In fact, the only claim to compounds of Formula II is in claim 8 as compounds IIA, which are quite different from the di-substituted compounds claimed by Applicant herein.

Specifically, the cited European patent does not disclose such di-substituted 6-azaindole compounds, nor the specific substituents for R₂ and R₄, including more specifically the methoxy substituents for groups R₂ and R₄. The cited reference only claims in claim 8 compounds of Formula IIA which are mono-substituted with R⁴ and are 4-azaindoles (i.e. the 6-membered ring nitrogen is in the 4-position). In the European patent, at page 3, lines 29-40, are specified only mono-substituted (i.e. R⁴ group) azaindoles where the nitrogen atom is at group A (i.e. the 4-position). Again, this is different from that claimed by Applicants herein.

In view of the above remarks, it is respectfully submitted that the claims 53 and 54 as previously allowed are still in condition for allowance even in view of this newly cited European patent.

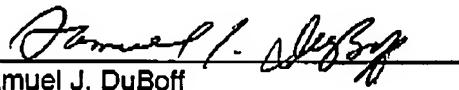
Early and favorable action is respectfully solicited.

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The Examiner is requested to consider the foregoing information in relation to this application and indicate that the reference was considered by returning a copy of the initialed PTO 1449 form(s).

Respectfully submitted,

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Date: 11/15/04

FORM PTO-1449
(REV. 7-85)U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
INFORMATION DISCLOSURE CITATION

(Use several sheets if necessary)

Sheet 1 of 1

ATTY. DOCKET NO.
GY83A DIV2
APPLICATION NO.
10/621,139
APPLICANT
TAO WANG ET AL
FILING DATE
JULY 16, 2003

Group

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE
AA						
AB						
AC						
AD						
AE						
AF						
AG						
AH						
AI						
AJ						
AK						
AL						

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	OFFICE	CLASS	SUBCLASS	TRANSLATION YES	NO
AM	EP 0379314A1	7/25/90	European Patent App.			<input type="checkbox"/>	<input type="checkbox"/>
AN						<input type="checkbox"/>	<input type="checkbox"/>
AO						<input type="checkbox"/>	<input type="checkbox"/>
AP						<input type="checkbox"/>	<input type="checkbox"/>
AQ						<input type="checkbox"/>	<input type="checkbox"/>

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent pages, Etc.)

AR	
AS	
AT	

EXAMINER

DATE CONSIDERED

*EXAMINER: Initial of reference considered, whether or not citation is in conformance with MPEP 609; Draw a line through citation if not in conformance and not considered. Include a copy of this form with the next communication to applicant.